



Reprinted
March 1, 2005

SENATE BILL No. 575

DIGEST OF SB 575 (Updated February 28, 2005 6:04 pm - DI 77)

Citations Affected: IC 14-8; IC 14-9; IC 14-21; IC 14-22; IC 23-14; noncode.

Synopsis: Archaeology. Defines "artifact" as a significant object made by a human before December 31, 1870. Requires a person who disturbs buried human remains or artifacts to cease disturbing the area within 100 feet of the remains or artifacts. Establishes a Class A infraction for violating certain duties concerning the unintentional discovery of artifacts. Allows confidentiality of location information of historical or archeological sites. Allows certain persons to accompany a conservation officer to investigate a violation of a historic preservation and archeology law. Establishes a fund to assist private homeowners who accidentally discover an artifact, a burial object, or human remains and need assistance to comply with a plan. Allows the court to order restitution for certain costs related to the violation of the historic preservation and archeology law. Establishes a Class D felony for possession of looted property and a Class C felony if the cost of carrying out an archeological investigation on the site that was damaged to obtain the looted property is more than \$100,000. Provides that a disinterment under a plan is exempt from other disinterment procedures. Establishes the historic and archeological site data base advisory task force. Makes conforming changes. Repeals chapter definition of "conservation officer" and applies the definition throughout the natural resources title. (The introduced version of this bill was prepared by the natural resources study committee.)

Effective: Upon passage; July 1, 2005.

Merritt, Simpson

January 20, 2005, read first time and referred to Committee on Natural Resources.
February 21, 2005, reported favorably — Do Pass.
February 28, 2005, read second time, amended, ordered engrossed.

SB 575—LS 7764/DI 77+



C
o
p
y

Reprinted
March 1, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 575

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-8-2-53 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 53. "Conservation
3 officer" ~~for purposes of IC 14-9-8, has the meaning set forth in~~
4 ~~IC 14-9-8-1; refers to an officer employee of the law enforcement~~
5 **division.**

6 SECTION 2. IC 14-21-1-2 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this
8 chapter, "artifact" means an object made or shaped by human
9 workmanship before ~~December 11, 1816~~. **December 31, 1870, that is**
10 **determined by the division to be significant.**

11 SECTION 3. IC 14-21-1-27 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) A person who
13 disturbs buried human remains shall do the following:

14 (1) **Immediately cease disturbing the human remains and the**
15 **area within one hundred (100) feet of the human remains.**
16 (2) **Notify the department within two (2) business days of the**
17 **time of the disturbance.**

SB 575—LS 7764/DI 77+



C
o
p
y

(3) Refrain from covering over the human remains.

(4) Submit a development plan to the department under section 26.5 of this chapter.

~~(2)~~ **(5)** Treat or rebury the human remains in a manner and place according to rules adopted by the commission or a court order and permit issued by the state department of health under IC 23-14-57.

(b) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor.

SECTION 4. IC 14-21-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) A person who discovers an artifact or burial object while disturbing the ground for a purpose other than the discovery of artifacts or burial objects shall do the following:

(1) Immediately cease disturbing the ground **and the area within one hundred (100) feet of the artifact or burial object.**

(2) Refrain from covering over the artifact or burial object.

~~(2)~~ **(3)** Notify the department within two (2) business days after the time of the disturbance.

(b) After notification under subsection (a) the department may do any of the following:

(1) Authorize the person to continue the ground disturbing activity, with or without conditions.

(2) Require that continued ground disturbance activity be conducted only in accordance with an approved plan. However, this subdivision does not apply after thirty (30) days from the date that the department receives notice.

(c) A person who violates subsection (a) commits a Class A infraction.

SECTION 5. IC 14-21-1-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 32. **(a) Except as provided in subsections (b) and (c), the division may keep reports and information concerning the location of historic and archeological sites confidential if the director of the division determines that disclosure would likely:**

(1) risk harm to the historic or archeological site;

(2) cause a significant invasion of privacy; or

(3) impede the use of a traditional religious site by practitioners.

(b) The division may not disclose reports and information required to be confidential under federal law.

(c) If the director of the division determines that reports and

**C
o
p
y**



information should be confidential under subsection (a), the director of the department, in consultation with the director of the division, shall determine who may have access to the confidential reports and information.

SECTION 6. IC 14-21-1-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. An employee of the division or a person authorized by the department may accompany a conservation officer on public or private property to determine if there is a violation of this article.

SECTION 7. IC 14-21-1-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 34. (a) The division may conduct a program to assist private homeowners who have accidentally discovered an artifact, a burial object, or human remains and who need assistance to comply with an approved plan to excavate or secure the site from further disturbance. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:

- (1) The Indiana historical society established under IC 23-6-3.
- (2) A historical society (as defined in IC 20-5-17.5-1(a)).
- (3) The Historic Landmarks Foundation of Indiana.
- (4) A professional archeologist or historian associated with a college or university.
- (5) Any other entity that the division selects.

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director of the division considers appropriate. The director shall use a gift or grant received under this subsection:

- (1) to carry out subsection (a); and
- (2) according to the terms and obligations of the gift or grant.

(c) The auditor of state shall establish the archeology preservation trust fund for purposes of holding money received under subsection (b).

(d) The director of the division shall administer the archeology preservation trust fund established by subsection (c). The expenses of administering the archeology preservation trust fund shall be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the archeology preservation trust fund established by subsection (c) that is not currently needed to meet the obligations of the trust

C
o
p
y



fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the archeology preservation trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the archeology preservation trust fund at the end of a state fiscal year does not revert to the state general fund. There is annually appropriated to the division the money in the archeology preservation trust fund for the division's use in carrying out the purposes of this section.

(g) The division may adopt rules to govern the administration of this section.

SECTION 8. IC 14-21-1-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 35. (a) In addition to:**

(1) a:

(A) sentence imposed under this chapter for a felony or misdemeanor; or

(B) judgment imposed under this chapter for an infraction; and

(2) an order for restitution to a victim;

the court may order an individual to make restitution to the archeology preservation trust fund under section 34 of this chapter for the division's cost necessitated because of the offense committed by the individual.

(b) In ordering restitution under this section, the court shall consider the following:

(1) The schedule of costs submitted to the court by the division.

(2) The cost to the property owner to restore or repair the damaged area of an archeological site or burial ground and place the property in the property's original condition as nearly as practicable.

(3) The amount of restitution that the individual is or will be able to pay.

(c) The court shall immediately forward a copy of an order for restitution made under this section to the division.

SECTION 9. IC 14-21-1-36 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 36. A person who knowingly or intentionally receives, retains, or disposes of an artifact, a burial object, or human remains that have been obtained in violation of this chapter commits possession of looted property, a Class D felony. However,**

C
o
p
y



the offense is a Class C felony if the fair market cost of carrying out a scientific archeological investigation of the area that was damaged to obtain the artifact, burial object, or human remains is at least one hundred thousand dollars (\$100,000).

SECTION 10. IC 14-22-40-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 35-41-1-17. The term includes a conservation officer. ~~(as defined in IC 14-9-8-1).~~

SECTION 11. IC 23-14-57-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. This chapter does not apply to the following:

(1) The disinterment, disinterment, or disinterment of remains upon the written order of the coroner of the county in which the cemetery is situated.

(2) The removal of human remains under a plan approved by the division of historic preservation and archeology under IC 14-21-1.

SECTION 12. IC 14-9-8-1 IS REPEALED [EFFECTIVE JULY 1, 2005].

SECTION 13. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of natural resources.

(b) As used in this SECTION "task force" refers to the historic and archeological site data base advisory task force established by subsection (c).

(c) The historic and archeological site data base advisory task force is established.

(d) The task force consists of the following individuals:

(1) The director of the department or the director's designee, who shall serve as the chairperson of the task force.

(2) The state archeologist or the state archeologist's designee.

(3) The state geologist of the Indiana geological survey or the state geologist's designee.

(4) The commissioner of the Indiana department of transportation or the commissioner's designee.

(5) Three (3) individuals, appointed by the director of the department, from Indiana universities or colleges who have expertise in geographic information systems, public information technology, information management, or other similar expertise.

(6) Three (3) individuals, appointed by the director of the

C
o
p
y



department, who are archeologists with experience in archeology in Indiana.

(e) The task force shall advise the department on the creation of an integrated data base of historic and archeological sites, including cemeteries and burial grounds (as defined in IC 14-21-1-3) and associated documentation. The data base must be designed to include the following:

- (1) Site record forms.
- (2) Reports of investigation.
- (3) Accidental site discovery summaries.
- (4) Site location data.
- (5) Location data for areas of previous investigation.
- (6) United States Geological Survey topographical map data.
- (7) Other documents and information that the task force determines is relevant.

(f) The task force shall investigate the following:

- (1) Ways the data base under subsection (e) can be developed and operated in collaboration with universities and other state entities.
- (2) Ways to limit access to certain information in the data base to prevent:
 - (A) damage, looting, or destruction of a historic site; and
 - (B) a significant invasion of privacy to a property owner.
- (3) Ways to provide professional archeologists with secure and timely access to information in the data base.
- (4) Ways to submit new archeological site or burial ground information, survey information, and archeological reports to the data base.
- (5) Ways to fund the construction, implementation, and maintenance of the data base with grants and other nonstate government sources of money.

(g) Members of the task force are not entitled to per diem or travel reimbursement.

(h) The department shall provide staff support for the task force.

(i) A majority of the members of the task force constitutes a quorum. Official action by the task force must be approved by at least six (6) members.

(j) The department shall provide the natural resources study committee with an annual progress report concerning activities under this SECTION.

(k) The task force shall complete its work before July 1, 2007.

**C
O
P
Y**



- 1 **(l) This SECTION expires July 1, 2007.**
2 **SECTION 14. An emergency is declared for this act.**

**c
o
p
y**



COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred Senate Bill No. 575, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 575 as introduced.)

WEATHERWAX, Chairperson

Committee Vote: Yeas 8, Nays 0.

**C
o
p
y**



SENATE MOTION

Madam President: I move that Senate Bill 575 be amended to read as follows:

Page 1, delete lines 6 through 9.

Page 1, line 12, delete "means:" and insert "means".

Page 1, delete line 13.

Page 1, line 14, delete "(2)".

Page 1, run in lines 12 through 14.

Page 1, line 14, delete "workmanship;" and insert "workmanship".

Page 1, line 14, reset in roman "before".

Page 1, line 15, after "1816." insert **"December 31, 1870, that is determined by the division to be significant."**

Page 1, delete lines 16 through 17.

Delete page 2.

Page 3, delete lines 1 through 33.

Page 6, between lines 26 and 27, begin a new line block indented and insert:

"(2) The cost to the property owner to restore or repair the damaged area of an archeological site or burial ground and place the property in the property's original condition as nearly as practicable."

Page 6, line 27, delete "(2)" and insert "(3)".

Page 6, line 38, delete "value" and insert "cost".

Page 6, line 38, delete "the property" and insert **"carrying out a scientific archeological investigation of the area that was damaged to obtain the artifact, burial object, or human remains"**.

Page 8, between lines 16 and 17, begin a new line block indented and insert:

"(3) Ways to provide professional archeologists with secure and timely access to information in the data base.

(4) Ways to submit new archeological site or burial ground information, survey information, and archeological reports to the data base.

(5) Ways to fund the construction, implementation, and maintenance of the data base with grants and other nonstate government sources of money."

Page 8, between lines 20 and 21, begin a new paragraph and insert:

"(i) A majority of the members of the task force constitutes a quorum. Official action by the task force must be approved by at least six (6) members."

Page 8, line 21, delete "(i)" and insert "(j)".

Page 8, between lines 23 and 24, begin a new paragraph and insert:

SB 575—LS 7764/DI 77+



C
O
P
Y

"(k) The task force shall complete its work before July 1, 2007."

Page 8, line 24, delete "(j)" and insert "(I)".

Renumber all SECTIONS consecutively.

(Reference is to SB 575 as printed February 22, 2005.)

MERRITT

**C
o
p
y**

